

UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION (AKRON)

In re: REBECCA C. PORTMAN

Debtor

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CASE NO. 21-BK-51382

CHAPTER 7

JUDGE: KOSCHIK

MOTION FOR RELIEF FROM STAY (§362)

Now come Interested Parties, Urs and Karin Schneeberger, who humbly Move this Court for an Order relieving them of the Automatic Stay put in place upon the filing of this case. Debtor Rebecca Portman is currently being sued for fraud in Summit County Common Pleas Court (CV-2021-07-2133) and is attempting to use this bankruptcy filing in to shield her from liability resulting from her purposefully fraudulent behavior. A more-detailed explanation is found below in a Memorandum in Support.

Respectfully Submitted,

/s/ Mark Graziani

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Attorney for Urs and Karin Schneeberger

MEMORANDUM IN SUPPORT

Interested parties Urs and Karin Schneeberger humbly request this Court for Relief from the Automatic Stay put in place upon the filing of this case. In July, 2021, the Schneebergers initiated an action in Summit County Common Pleas Court against Rebecca Portman, her husband David Portman, and their two phony entities “Modern Enterprises” and “U-Load-It, LLC.” The action was for intentionally fraudulent behavior by the Portmans, who were warned by counsel ahead of time to not pursue the intentional conduct that inevitably got them sued.

Facts of the Case:

Movants aver the following facts giving rise to the Summit County action to be true:

1. On November 15, 2020, a storm blew down a large maple tree in the backyard of Urs and Karin Schneeberger’s residence at 570 Rawlins Avenue, Akron.
2. Mr. Schneeberger surveyed the damage and then called his landscaper, David Garanich, to inspect his yard and give him an estimate for debris cleanup.
3. Mr. Garanich owns a small landscaping company as a sole proprietor.
4. Aside from his landscaping business, Mr. Garanich is a business partner with David and Rebecca Portman in the non-registered entities Modern Enterprise and U-Load-It. This fact is relevant later in the Summit County Complaint. Mr. Garanich and the Portmans are currently engaged in separate litigation that has no connection to the Schneeberger Complaint (Garanich v. Portman, et al. - Summit County CV-2021-05-1414).
5. Mr. Garanich reviewed the storm damage at 570 Rawlins and quoted the tree removal/cleanup.
6. Urs Schneeberger agreed to the price and a contract was formed between David Garanich’s landscape business and Urs Schneeberger.

7. Given the magnitude of the storm damage, David Garanich concluded the job was too large for him to accomplish alone. To assist with the labor, David Garanich brought in the Defendant, David Portman, as his helper.
8. Starting on or about Monday, November 16, 2020, and continuing intermittently through Sunday, November 28, 2020, the tree and debris were removed by David Garanich and David Portman. The last day of work was November 28, 2020.
9. After the work was done, Urs Schneeberger paid David Garanich the agreed-on price and the contract was complete.
10. Shortly thereafter, Defendant David Portman concluded he, personally, was owed extra money for the work and should be paid outside of his helper agreement with David Garanich.
11. In early December, David Portman showed up at the Schneeberger residence and demanded an additional payment in the amount of \$10,580.08. An argument ensued and David Portman began making threats. Urs Schneeberger demanded he leave the property immediately, and he did.
12. Approximately two weeks later, David Portman once again showed up at the Schneeberger residence demanding payment. An argument ensued and David Portman made more threats. Urs Schneeberger again demanded he leave, and he did.
13. On January 6, 2021, David and Rebecca Portman sent the Schneebergers a copy of an unrecorded mechanic's lien in the amount of \$10,580.08. The Schneebergers immediately brought in counsel for assistance with this rapidly-escalating situation.
14. The mechanic's lien sent by the Portmans is wholly fraudulent. It claims the Portmans, aka Modern Enterprise/U-Load-It, performed the debris cleanup on the Schneeberger property instead of David Garanich's landscaping business.

15. Additionally, this fraudulent document claims the last day of work was December 14, 2020. This is not true; the last day of work performed by David Garanich was November 28, 2020.
16. This fraudulent document was signed by Rebecca Portman, as owner/agent for Modern Enterprise/U-Load-It, none of whom had anything to do with the Garanich-Schneeberger contract.
17. Counsel immediately sent a certified letter to the Portmans explaining clearly that they were intentionally committing fraud and that legal action would be taken against them if they recorded this false lien. Service was perfected, but no response was ever received.
18. Periodically, counsel would search the Summit County Recorder's website for the lien. Curiously, it did not show up under name, address, or parcel number searches.
19. On March 5, 2021, a collection letter was sent to the Schneebergers from Attorney Jeffrey Koberg in Cleveland. Counsel immediately sent Attorney Koberg a letter explaining that the Portmans were intentionally pursuing fraudulent debt. No response or follow-up was received from Attorney Koberg.
20. In early July, 2021, counsel was searching the recorder's website and, after cross-searching in many different ways, the recorded Portman lien was finally discovered.
21. The fraudulent mechanic's lien was recorded on January 7, 2021. The reason it did not show up during earlier name, address, or parcel number searches is unclear.
22. Despite numerous warnings, the Portmans have pursued an intentional program of fraud against the Schneebergers. They have no claim against the Schneebergers.
23. The contract for work was between David Garanich and Urs Schneeberger. There are no other parties to the contract nor is there vertical privity of contract that would grant rights to the Portmans via the contract to make a claim against the Schneebergers.

24. The Portmans' two businesses, Modern Enterprise and U-Load-It, were not registered with the State of Ohio and do not shield the Portmans from personal liability for their fraudulent pursuits.

25. Urs and Karin Schneeberger then brought the Summit County action against the Portmans, Modern Enterprise, and U-Load-It, jointly and severally, for the events that occurred after the storm cleanup on the Schneeberger property.

26. In response to the Summit County suit (and subsequent perfection of service on September 16, 2021), Rebecca Portman filed the instant case and the Automatic Stay was put into place.

27. Urs and Karin Schneeberger now request this Court for an Order lifting the Automatic Stay so they may proceed with litigating the Summit County action against Rebecca Portman.

Respectfully Submitted,

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SERVICE LIST

Parties to be served via the Court's Electronic Case Filing System: these entities and individuals are listed on the Courts Electronic Mail Notice List:

21-51382-amk Notice will be electronically mailed to the U.S. Trustee, and:

Trustee Julie Zurn, jzurn@brouse.com;

Mark Knevel, Attorney for Debtor, mknevel@knevellaw.com;

Mark Graziani, Attorney for Interested Parties, mark_graziani@yahoo.com, mark@graziani-law.com;

And sent via regular US mail to the following:

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